

BEFORE THE DIVISION OF INSURANCE

STATE OF COLORADO

FINAL AGENCY ORDER O-07-028

IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF NEW ENGLAND LIFE INSURANCE COMPANY,

Respondent

THIS MATTER comes before the Colorado Commissioner of Insurance (the "Commissioner") as a result of a market conduct examination conducted by the Colorado Division of Insurance (the "Division") of New England Life Insurance Company (the "Respondent"), pursuant to §§ 10-1-201 to 207, C.R.S. The Commissioner has considered and reviewed the market conduct examination report dated May 26, 2006 (the "Report"), relevant examiner work papers, all written submissions and rebuttals, and the recommendations of staff. The Commissioner finds and orders as follows:

FINDINGS OF FACT

1. At all relevant times, the Respondent was licensed by the Division as a life and health insurance company.
2. In accordance with §§ 10-1-201 to 207, C.R.S., on May 26, 2006, the Division completed a market conduct examination of the Respondent. The period of examination was July 1, 2004 to June 30, 2005.
3. In scheduling the market conduct examination and in determining its nature and scope, the Commissioner considered such matters as complaint analyses, underwriting and claims practices, pricing, product solicitation, policy form compliance, market share analyses, and other criteria as set for the in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners, as required by § 10-1-203(1), C.R.S.
4. In conducting the examination, the examiners observed those guidelines and procedures set forth in the most recent available edition of the examiners' handbook adopted by the National Association of Insurance Commissioners and the Colorado Insurance Examiners Handbook. The Commissioner also employed other guidelines and procedures that he deemed appropriate, pursuant to § 10-1-204(1), C.R.S.

5. The market conduct examiners prepared a Report. The Report is comprised of only the facts appearing upon the books, records, or other documents of the Respondent, its agents or other persons examined concerning Respondent's affairs. The Report contains the conclusions and recommendations that the examiners find reasonably warranted based upon the facts.
6. Respondent delivered to the Division written submissions and rebuttals to the Report.
7. The Commissioner has fully considered and reviewed the Report, all of Respondent's submissions and rebuttals, and all relevant portions of the examiner's work papers.

CONCLUSIONS OF LAW AND ORDER

8. Unless expressly modified in this Final Agency Order ("Order"), the Commissioner adopts the facts, conclusions and recommendations contained in the final Report. A copy of the Report is attached to the Order and is incorporated by reference.
9. Issue A1 concerns the following violation: Certifying and using forms that do not comply with Colorado insurance law. The Respondent shall provide evidence that it has established procedures to ensure evidence of coverage forms issued or delivered to Colorado insureds comply with statutory mandates as certified by an officer of Respondent in compliance with Colorado insurance law.
10. Issue A2 concerns the following violation: Failure to reflect all required information in access plans. The Respondent shall provide evidence that it has implemented procedures to ensure that all required information is reflected in its access plans in compliance with Colorado insurance law.
11. Issue A3 concerns the following violation: Failure to reflect some forms in use on the 2004 and 2005 Annual Report of Forms. The Respondent shall provide evidence that it has implemented procedures to ensure that all forms in use are reflected on its Annual Report of Forms in compliance with Colorado insurance law.
12. Issue A4 concerns the following violation: Failure to provide the required disclosures concerning mandated benefits on the Basic Health Benefit Plan and all other small group health benefit plans. The Respondent shall provide evidence that it has implemented procedures to ensure that all disclosures regarding mandated benefits are provided in compliance with Colorado insurance law.

13. Issue E1 concerns the following violation: Failure to provide benefits for covered services based on a licensed provider's status, e.g., residing in the household of the insured, a member of the insured person's immediate family, or being the employer of an insured or the insured's dependents. The Respondent shall provide evidence that it has implemented procedures to ensure no policy forms reflect that reimbursement for covered benefits performed by a licensed provider who normally charges for the services will be denied based upon the provider's status, e.g., residing in the household, an immediate family member, or the employer of an insured or the insured's dependents in compliance with Colorado insurance law.
14. Issue E2 concerns the following violation: Failure to have a 2005 Health Plan Description Form or certificate of coverage for the State mandated Basic and Standard Health Benefit Plans. The Respondent shall provide evidence that it has established procedures to ensure that all forms are updated and available for use by insureds for the State mandated Basic and Standard Health Benefit Plans in compliance with Colorado insurance law.
15. Issue E3 concerns the following violation: Failure to deliver the summary document for the Life and Health Insurance Protection Association when delivering policies or contracts. The Respondent shall provide evidence that it has established procedures to ensure the summary document for the Life and Health Insurance Protection Association, containing correct information, is delivered concurrently or prior to the delivery of a policy or contract in compliance with Colorado insurance law.
16. Issue E4 concerns the following violation: Failure to title the Basic Health Benefit Plans with a plan design option. The Respondent shall provide evidence that it has implemented procedures to ensure that its Basic Health Benefit Plans are titled and marketed with the chosen plan design option in compliance with Colorado insurance law.
17. Issue E5 concerns the following violation: Failure to reflect that coverage for suicide or self-inflicted injuries sustained by an insane person would be allowed. The Respondent shall provide evidence that it has implemented procedures to ensure that all applicable policy forms reflect charges for services made necessary as a result of self-inflicted injuries, including suicide if committed by an insane person, are covered in compliance with Colorado insurance law.
18. Issue E6 concerns the following violation: Failure to provide correct or complete disclosure information to small employers. The Respondent shall provide evidence that it has implemented procedures to ensure correct and complete disclosure information is provided to small employers in compliance with Colorado insurance law.

19. Issue E7 concerns the following violation: Failure to reflect correct or complete coverage information in the State mandated plans. The Respondent shall provide evidence that it has established procedures to ensure its certificates reflect correct and complete coverage information for the Basic and Standard Health Benefit Plans in compliance with Colorado insurance law.
20. Issue E8 concerns the following violation: Failure to reflect correct coverage requirements for skilled nursing facility care. The Respondent shall provide evidence that its certificates reflect correct requirements for skilled nursing facility care in the Basic and Standard Health Benefit Plans in compliance with Colorado insurance law.
21. Issue E9 concerns the following violation: Failure to reflect correct bone marrow transplants to be covered. The Respondent shall provide evidence that it has established procedures to ensure that all its certificates reflect correct coverage for organ transplants in compliance with Colorado insurance law.
22. Issue E10 concerns the following violation: Failure to reflect correct or complete required provisions in individual and small group plans. The Respondent shall provide evidence that it has established procedures to ensure that all its certificates and policies reflect complete and correct provisions in individual and small group plans in compliance with Colorado insurance law.
23. Issue E11 concerns the following violation: Failure to reflect clearly and completely the extent of coverage to be provided for home health care services and hospice care. The Respondent shall provide evidence that it has established procedures to ensure all its certificates and policies reflect clearly and completely the extent of coverage for home health services and hospice care in compliance with Colorado insurance law.
24. Issue E12 concerns the following violation: Failure to correctly identify or provide a complete description of external review procedures. The Respondent shall provide evidence that it has established procedures to ensure all its policy forms correctly identify and provide a complete description of external review provisions in compliance with Colorado insurance law.
25. Issue E13 concerns the following violation: Failure to reflect correct or complete provisions allowing continuation of coverage. The Respondent shall provide evidence that it has established procedures to ensure all its certificates reflect correct and complete provisions allowing continuation of coverage in compliance with Colorado insurance law.

26. Issue E14 concerns the following violation: Failure to disclose the mandated hospitalization and general anesthesia benefit for dental procedures for dependent children. The Respondent shall provide evidence that it has established provisions to ensure its certificates and policies reflect the complete coverage provided for dental procedures for dependent children in compliance with Colorado insurance law.
27. Issue E15 concerns the following violation: Failure to reflect a complete description of the therapies for congenital defects and birth abnormalities. The Respondent shall provide evidence that it has established procedures to ensure its certificates and policies reflect complete information concerning the coverage for therapies for congenital defects and birth abnormalities in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
28. Issue E16 concerns the following violation: Failure to reflect the coverage to be provided for inherited enzymatic disorders. The Respondent shall provide evidence that it has established procedures to ensure its certificates and policies reflect the coverage for inherited enzymatic disorders in compliance with Colorado insurance law.
29. Issue E17 concerns the following violation: Failure to reflect a complete description of the coverage to be offered for alcoholism treatment. The Respondent shall provide evidence that it has established procedures to ensure its certificates reflect the complete coverage for the treatment of alcoholism and conditions arising from alcoholism in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
30. Issue E18 concerns the following violation: Failure to reflect complete or correct benefits for child health supervision services. The Respondent shall provide evidence that it has established procedures to ensure its certificates and policies reflect the complete and correct coverage for child health supervision services in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
31. Issue E19 concerns the following violation: Failure to correctly define the requirements to qualify as a disabled dependent. The Respondent shall provide evidence that it has established procedures to ensure its certificates reflect the correct requirements to qualify as a disabled dependent in compliance with Colorado insurance law.

32. Issue E20 concerns the following violation: Failure to reflect a definition of 'complications of pregnancy' or that coverage is to be provided in the same manner as any other similar sickness or disease is covered under the plan. The Respondent shall provide evidence that it has established procedures to ensure its certificates reflect a definition and extent of coverage provided for 'complications of pregnancy' in the same manner as any other similar sickness or disease covered under the plan in compliance with Colorado insurance law.
33. Issue E21 concerns the following violation: Failure to offer the Basic and Standard Health Benefit Plans as conversion coverage. The Respondent shall provide evidence that it has established procedures to ensure that in applicable instances of termination of small group coverage, it offers the choice of a Basic or Standard Health Benefit Plan in compliance with Colorado insurance law.
34. Issue E22 concerns the following violation: Failure to reflect complete guidelines pertaining to or correct benefit amounts to be provided for mammography screening. The Respondent shall provide evidence that it has established procedures to ensure its policies reflect complete guidelines and that correct benefit amounts are provided for mammography screening in compliance with Colorado insurance law.
35. Issue E23 concerns the following violation: Failure to disclose required information on applications when offering composite rates. The Respondent shall establish procedures to ensure that all disclosure information concerning the use of composite rates is provided to small employers at initial application in compliance with Colorado insurance law.
36. Issue E24 concerns the following violation: Failure to allow employers to choose the percentage of contribution for dependents. The Respondent shall provide evidence that it has established procedures to ensure its applications do not impose a maximum or minimum employer contribution for dependent coverage in compliance with Colorado insurance law.
37. Issue E25 concerns the following violation: Failure to reflect any information concerning the mandated coverage for prostate cancer screening. The Respondent shall provide evidence that it has established procedures to ensure its policies reflect the mandated coverage provided for prostate cancer screening in compliance with Colorado insurance law.
38. Issue E26 concerns the following violation: Failure to display the required fraud warning statement. The Respondent shall provide evidence that it has established procedures to ensure the required fraud warning statement is displayed on all applicable plans in compliance with Colorado insurance law.

39. Issue E27 concerns the following violation: Failure to reflect correct information in the employee application concerning participation requirements. The Respondent shall provide evidence that it has established procedures to ensure correct information concerning participation requirements is displayed on employee applications in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
40. Issue E28 concerns the following violation: Failure to reflect an accurate definition of who qualifies as an eligible dependent. The Respondent shall provide evidence that it has established procedures to ensure correct information concerning the definition of who qualifies as an eligible dependent is displayed in applications and all other forms in compliance with Colorado insurance law.
41. Issue G1 concerns the following violation: Failure to automatically provide Colorado Health Plan Description Forms during the application process. The Respondent shall provide evidence that it has established procedures to ensure Health Plan Description forms are provided automatically during the application process in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
42. Issue G2 concerns the following violation: Failure to reflect the correct number of days allowed in Colorado for a gap in coverage in order to be able to count creditable coverage. The Respondent shall provide evidence that it has established procedures to ensure all forms reflect the correct ninety (90) days allowed for a gap in coverage in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
43. Issue G3 concerns the following violation: Failure to disclose required information at renewal when offering composite rates. The Respondent shall provide evidence that it has established the necessary procedures to ensure the required information is disclosed at renewal when offering composite rates in compliance with Colorado insurance law.
44. Issue G4 concerns the following violation: Failure, in some instances, to use employer and employee applications that comply with Colorado insurance law. The Respondent shall provide evidence that it has established the necessary procedures to ensure that employer and employee applications that are used are in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.

45. Issue H1 concerns the following violation: Failure to offer conversion coverage to eligible members of terminated groups. The Respondent shall provide evidence that it has established the necessary procedures to ensure conversion coverage is provided to all eligible members of terminated groups in compliance with Colorado insurance law. The Division's records indicate that the Respondent has complied with the corrective actions ordered concerning this violation.
46. Issue J1 concerns the following violation: Failure, in some cases, to pay, deny, or settle claims within the required time periods. The Respondent shall provide evidence that it has established procedures to ensure that all claims are paid, denied or settled within the required time periods in compliance with Colorado insurance law.
47. Issue J2 concerns the following violation: Failure to correctly calculate late payment interest/penalties or to pay when due in some instances. The Respondent shall provide evidence that it has established procedures to ensure interest and penalty amounts for late payment of benefits are correctly calculated and paid in compliance with Colorado insurance law. Respondent shall perform a self audit of all claims not processed within the required time frames, and pay any interest and/or penalties due to the appropriate persons for the time period beginning July 1, 2004 to November 20, 2006. Respondent shall submit a summary of the findings to the Division on or before March 1, 2007.
48. Issue J3 concerns the following violation: Failure to accurately determine the number of days utilized for claim processing. The Respondent shall provide evidence that it has established the necessary procedures to ensure the number of days utilized for claim processing is correctly determined in compliance with Colorado insurance law.
49. Issue J4 concerns the following violation: Failure to pay claims during the grace period allowed for payment of premiums. The Respondent shall provide evidence that it has established the necessary procedures to ensure claims incurred during the grace period are paid in compliance with Colorado insurance law.
50. Issue K1 concerns the following violation: Failure to reflect correct or complete information in documents outlining utilization review guidelines. The Respondent shall provide evidence that it has established the necessary procedures to ensure correct and complete information is displayed in documents outlining utilization review guidelines in compliance with Colorado insurance law.
51. Issue K2 concerns the following violation: Failure to have written notification of denial of benefits signed by a licensed physician. The

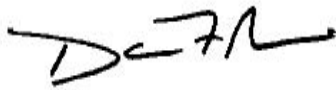
Respondent shall provide evidence that it has established the necessary procedures to ensure, in applicable cases, all written denials of requests for covered benefits are signed by a licensed physician in compliance with Colorado insurance law.

52. Issue K3 concerns the following violation: Failure to include all required elements in written notification letters for first level appeal decisions. The Respondent shall provide evidence that it has established the necessary procedures to ensure all required elements are included in written notification letters for first level appeal reviews in compliance with Colorado insurance law.
53. Issue K4 concerns the following violation: Failure to enter all written requests for a first level review into the complaint record. The Respondent shall provide evidence that it has established the necessary procedures to ensure all written requests for a first level review are entered into the complaint record in compliance with Colorado insurance law.
54. Pursuant to § 10-1-205(3)(d), C.R.S, the Respondent shall pay a civil penalty to the Division in the amount of thirty-two thousand and no/100 dollars (\$32,000.00) for the cited violations of Colorado insurance law. This fine was calculated in accordance with Division guidelines for assessing penalties and fines, including Division bulletin no. 1-98, issued on January 1, 1998.
55. Pursuant to § 10-1-205(4)(a), C.R.S., within sixty (60) days of the date of this Order, the Respondent shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related order.
56. Unless otherwise specified in this Order, all requirements with this Order shall be completed within thirty (30) days of the date of this Order. Respondent shall submit written evidence of compliance with all requirements to the Division within the thirty (30) day time frame, except where Respondent has already complied, as specifically noted in the Order. Copies of any rate and form filings shall be provided to the rate and forms section with evidence of the filings sent to the market conduct section. All self audits, if any, shall be performed in accordance with Division's document, 'Guidelines for Self Audits Performed by Companies' presented at the market conduct examination exit meeting. Unless otherwise specified in this Order, all self audit reports must be received within ninety (90) days of the Order, including a summary of the findings and all monetary payments to covered persons.
57. This Order shall not prevent the Division from commencing future agency action relating to conduct of the Respondent not specifically addressed in

the Report, not resolved according to the terms and conditions in this Order, or occurring before or after the examination period. Failure by the Respondent to comply with the terms of this Order may result in additional actions, penalties and sanctions, as provided for by law.

58. Copies of the examination report, the Respondent's response, and this final Order will be made available to the public no earlier than thirty (30) days after the date of this Order, subject to the requirements of § 10-1-205, C.R.S.

WHEREFORE: It is hereby ordered that the findings and conclusions contained in the final examination report dated May 26, 2006 are hereby adopted and filed and made an official record of this office, and the above Order is hereby approved this 20th day of November, 2006.

A handwritten signature in black ink, appearing to read 'D-F-R', is positioned above a horizontal line.

David F. Rivera
Commissioner of Insurance

CERTIFICATE OF MAILING

I hereby certify that on the 20th day of November, 2006, I caused to be deposited the **FINAL AGENCY ORDER NO. O-07-028 IN THE MATTER OF THE MARKET CONDUCT EXAMINATION OF NEW ENGLAND LIFE INSURANCE COMPANY**, in the United States mail via certified mailing with proper postage affixed and addressed to:

Mr. C. Robert Henrikson, President
New England Life Insurance Company
501 Boylston Street
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Dawn Audia, VP-Strategic Accounts
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